

## **ASSEMBLY, No. 1788**

# STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

**By Assemblyman AUGUSTINE**

## **1 AN ACT concerning railroads and amending R.S.48:12-152.**

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**3       BE IT ENACTED** by the Senate and General Assembly of the State  
4     of New Jersey:

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6        1. R.S.48:12-152 is amended to read as follows:

7       48:12-152. It shall not be lawful for any person other than those  
8 connected with or employed upon the railroad to walk along the tracks  
9 of any railroad except when the same shall be laid upon a public  
10 highway.

Any person injured by an engine or car while walking, standing or playing on a railroad or by jumping on or off a car while in motion [shall be deemed to have contributed to the injury sustained and] shall not recover therefor any damages from the company owning or operating the railroad. This section shall apply notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et seq.), but shall not apply to the crossing of a railroad by a person at any lawful public or private crossing.

19 (cf: R.S.48:12-152)

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21       2. This act shall take effect immediately and shall apply to any  
22 action for damages initiated on or after the effective date of this act.

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## STATEMENT

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28 or car while walking, standing or playing on a railroad shall be deemed  
29 to have contributed to the injury sustained and therefore shall not  
30 recover any damages from the company owning or operating the  
31 railroad. However, in the case of Renz v. Penn Central Corp., 87 N.J.  
32 437 (1981), the New Jersey Supreme Court held, in effect, that the  
33 provisions of the comparative negligence act, P.L.1973, c.146  
34 (C.2A:15-5.1 et seq.), rather than the provisions of R.S.48:12-152,

**EXPLANATION -** Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

**Matter underlined thus is new matter.**

1 should prevail in railroad-related injury cases. In Renz the Court  
2 determined that the absolute bar to recovery under contributory  
3 negligence which existed in R.S.48:12-152 should be replaced by the  
4 apportionment of the loss among those who are at fault as under the  
5 comparative negligence doctrine. This bill would clarify the  
6 Legislature's intent that the provisions R.S.48:12-152 would control  
7 in railroad-related injuries sustained by trespassers; that is, there  
8 remains an absolute bar to recovery for these injuries despite the  
9 adoption of the comparative negligence doctrine in New Jersey. New  
10 Jersey Transit estimates that since 1981 over 250 trespasser cases have  
11 resulted in approximately \$10 million in actual and projected claim  
12 payouts by the corporation.

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17 Provides that railroad immunity act controls in actions concerning  
18 railroad-related injuries sustained by trespassers.